

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

<p>In re:</p> <p>FAIRFIELD SENTRY LIMITED, et al.,</p> <p style="text-align: center;">Debtor in Foreign Proceedings.</p>	<p>Chapter 15 Case</p> <p>Case No. 10-13164 (CGM)</p> <p>Jointly Administered</p>
<p>FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>THEODOOR GGC AMSTERDAM, et al.,</p> <p style="text-align: center;">Defendants.</p>	<p>Adv. Pro. No. 10-03496 (CGM)</p> <p>Administratively Consolidated</p>
<p>FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>HSBC SECURITIES SERVICES (LUXEMBOURG) S.A., et al.,</p> <p style="text-align: center;">Defendants.</p>	<p>Adv. Pro. No. 10-03630 (CGM)</p>

**PRIVATE-SPACE LTD.’S AND LIQUIDATORS’ FED. R. CIV. P. 26(f)
REPORT AND SCHEDULING ORDER**

In accordance with Federal Rule of Civil Procedure 26(f) and Federal Rule of Bankruptcy Procedure 7026, counsel for the Joint Liquidators and Foreign Representatives (the “Liquidators”) of Fairfield Sentry Limited (In Liquidation) (“Sentry”), Fairfield Sigma Limited (In Liquidation) (“Sigma”), and Fairfield Lambda Limited (In Liquidation) (“Lambda” and, together with Sentry and Sigma, the “Funds”) and counsel for Private-Space Ltd. (“Defendant”) met on September 30, 2021 and exchanged communications thereafter. The Defendant and the Liquidators (together, the

“Parties”) submit this Report as required under the Rules. This Report and the accompanying Proposed Order are without prejudice to any party’s claims or defenses, including defenses based on lack of personal jurisdiction.

I. FACT DISCOVERY

1. **Initial Disclosures:** The Parties shall exchange their initial disclosures under Federal Rule of Civil Procedure 26(a)(1)(A) on or before Friday, November 5, 2021.

2. **Personal Jurisdiction:** In accordance with the Court’s order of September 28, 2021 (Dkt. 3900, No. 10-ap-03496), Defendant intends to move to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(2) that it is not subject to personal jurisdiction in this case (“PJ Motion”) on or before Friday, October 29, 2011; the Liquidators will oppose the PJ Motion on or before Tuesday, March 15, 2022; the Defendant will file a reply in further support of the PJ Motion on or before Thursday, March 31, 2022; and the Court will hear argument on the PJ Motion on Wednesday, April 20, 2022.

3. **Discovery:**

- a. The Liquidators served initial discovery requests on Defendant on Tuesday, September 14, 2021.
- b. Defendant will submit its written responses and objections to the initial discovery requests served on it by Wednesday, October 27, 2021.
- c. Defendant opposes jurisdictional discovery on the basis that the Liquidators have not pled a *prima facie* case with respect to personal jurisdiction. Defendant also opposes merits discovery prior to the Court's resolution of its motion to dismiss for lack of personal jurisdiction.
- d. The Liquidators disagree with Defendant’s positions regarding jurisdictional and merits discovery and take the position that the discovery

the Liquidators served on September 14, 2021, and any future discovery served, should move forward in accordance with the Federal Rules of Civil Procedure. The Liquidators reserve all rights to move to compel Defendant to respond to the discovery already served or future discovery.

- e. The parties agree to enter into good faith negotiations regarding changes to any of the dates set forth herein in the event of any Court ruling that stays discovery, orders that discovery shall not proceed, or upholds an objection to proceeding with discovery.

4. **Interrogatories and Requests for Admission:**

- a. Interrogatories (except contention interrogatories) shall be served by Monday, November 28, 2022.
- b. Contention interrogatories and requests for admission shall be served by Friday, January 27, 2023. Contention interrogatories shall be served no earlier than Monday, November 28, 2022.

5. **Depositions:** The number and length of depositions shall presumptively be as provided in the Federal Rules of Civil Procedure, subject to the right of any party to seek modification thereof by mutual agreement or, for good cause, by order of the Court. The Parties shall meet and confer regarding the location and scheduling of depositions, taking into account the interests of the witness.

6. **Merits Document Discovery:** The Parties shall substantially complete document productions by Monday, June 27, 2022.

7. **Fact Discovery Cut-Off:** Fact discovery shall conclude by Friday, January 27, 2023.

II. EXPERT DISCOVERY

1. **Disclosure:** The deadline for the Parties to disclose the identity of any expert witness under Federal Rule of Civil Procedure 26(a)(2) is Tuesday, December 13, 2022. The Parties may designate rebuttal expert witnesses consistent with Federal Rule of Civil Procedure 26(a)(2)(D)(ii) by Wednesday, January 11, 2023.

2. **Expert Reports:** The Parties shall submit a mutually agreed to proposed schedule for exchanging opening, rebuttal, and reply expert reports and for completion of expert depositions (or, barring agreement, competing proposed Orders) for the Court's consideration no later than Wednesday, January 25, 2023.

3. **Expert Discovery Cut-Off:** All expert discovery shall be completed by Thursday, September 14, 2023.

III. FURTHER PROCEEDINGS AND OTHER MATTERS

1. The Parties shall submit a mutually agreed to proposed ESI Protocol and Confidentiality Order (or, barring agreement, competing proposed ESI Protocols and Confidentiality Orders) for the Court's consideration by Thursday, October 21, 2021.

2. Any request for leave to amend pleadings or join parties shall be made by Friday, February 10, 2023.

3. The Parties shall jointly contact the Court on Friday, September 22, 2023 to schedule a status conference to discuss summary judgment and trial.

4. All motions, applications, and discovery disputes shall be governed by the Court's Chambers Rules.

5. The Parties may stipulate to the adjournment of any date without further approval of the Court, other than the dates for: (a) fact discovery cut-off, (b) expert discovery cut-off, and

(c) proposing schedules for the exchange of expert reports and for seeking a further schedule from the Court as provided in paragraph III(4).

6. All applications to modify or extend the dates herein shall be made in a written application in accordance with the Court's Chambers Rules and shall be made no less than two business days prior to the expiration of the date sought to be extended.

Respectfully submitted,

Dated: October 14, 2021
New York, New York

/s/ David Elsberg

SELENDY & GAY PLLC

David Elsberg
Lena Konanova
1290 Avenue of the Americas
New York, NY 10104
Telephone: 212-390-9000
delsberg@selendygay.com
lkonanova@selendygay.com

– and –

BROWN RUDNICK LLP

David J. Molton
Marek P. Krzyzowski
Seven Times Square
New York, NY 10036
Telephone: 212-209-4800
dmolton@brownrudnick.com
mkrzyzowski@brownrudnick.com

Attorneys for Plaintiffs Foreign Representatives

**Dated: October 19, 2021
Poughkeepsie, New York**

Dated: October 14, 2021
New York, New York

/s/ Michael C. Lambert

GILMARTIN, POSTER & SHAFTO LLP

Michael C. Lambert
845 Third Avenue, 17th Floor
New York, NY 10022
Telephone: 212-425-3220
mclambert@lawpost-nyc.com

Attorneys for Private-Space Ltd.

/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
Chief U.S. Bankruptcy Judge**

